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Attorneys for Plaintiff and the Putative Classes

(Attorneys for Defendants listed on signature page)

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Stephen Ellsworth, Marilyn Weaver, and
Lawrence and Donene Skelley, as individuals
and as representatives of the classes and on
behalf of the general public,

Plaintiffs,

vs.

U.S. Bank, N.A. and
American Security Insurance Company,

Defendants.

Case No. CV 12-2506 LB

**FIFTH UPDATED JOINT CASE
MANAGEMENT STATEMENT**

ORDER

Date: July 17, 2014

Time: 11:00 a.m.

Courtroom: C

Judge: Honorable Laurel Beeler

Complaint filed: May 16, 2012

1 On July 2, 2014, the Court ordered that the Parties submit an updated Joint Case
2 Management Statement and set a Case Management Conference for July 17, 2014. Pursuant to
3 the Court's Order, Plaintiffs Stephen Ellsworth, Marilyn Weaver, Donene Skelley, and Lawrence
4 Skelley ("Plaintiffs") and Defendants U.S. Bank, N.A. ("U.S. Bank") and American Security
5 Insurance Company ("ASIC") (collectively, the "Parties") have conferred and hereby submit this
6 Fifth Updated Case Management Statement.

7 **I. Status of Class Action – Interlocutory Appeal and Class Notice**

8 U.S. Bank filed a Rule 23(f) Petition for Permission to Appeal Class Action Certification
9 before the Ninth Circuit on June 27, 2014. The Parties are in agreement that while this Rule 23(f)
10 petition is pending, they will continue to prepare the class data necessary for class notice and draft
11 the class notice papers. All Parties further agree that it would be premature, however, to send
12 notice to the class members before the Rule 23(f) petition is resolved. The schedule for all other
13 items will correspondingly depend upon when class notice is sent. The Parties agree that the
14 current trial dates will need to be rescheduled, and request that they be taken off of the Court's
15 calendar.

16 **II. Status of Settlement**

17 Pursuant to the Court's prior instructions, the Parties have engaged in settlement
18 discussions following the Court's June 13, 2014 class certification order. The Parties will
19 continue to engage in such discussions during the pendency of the Rule 23(f) petition. The
20 parties currently are exploring a variety of alternative formats for settlement discussions, and
21 accordingly request an extension of 60 days in which to schedule a further settlement conference.
22 See Dkt. No. 102.

23 **III. Scheduling of Case Management Conference**

24 As the Parties have agreed to the course of action set forth above, and because Mr.
25 Richter, counsel for Plaintiffs, has a conflict on July 17, 2014, the Parties hereby stipulate and
26 request that the Case Management Conference set for July 17, 2014 be vacated, and rescheduled
27 for a date after August 17, 2014.
28

Respectfully Submitted,

Dated: July 10, 2014

By: /s/Kai H. Richter

KAI H. RICHTER (*pro hac vice*)
NICHOLS KASTER, PLLP
4600 IDS Center, 80 S 8th St
Minneapolis, MN 55402
Attorney for Plaintiff

Dated: July 10, 2014

By: /s/Vernle C. Durocher, Jr.

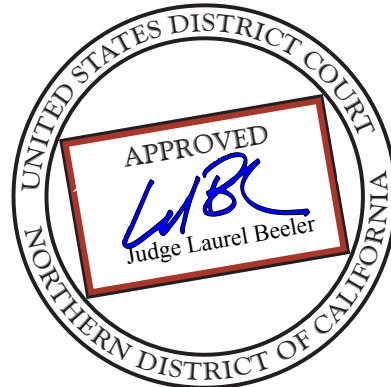
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50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Attorney for U.S. Bank

Dated: July 10, 2014

By: /s/W. Glenn Merten

W. GLENN MERTEN
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Attorney for ASIC

Case Management Conference set for August 21, 2014 at 11:00 a.m. A Joint Case
Management Conference Statement (with updated information only) due August 14, 2014.
Dated: July 11, 2014



ECF ATTESTATION

I, Timothy J. Droske., am the ECF User whose ID and password are being used to file the foregoing FIFTH UPDATED JOINT CASE MANAGEMENT STATEMENT. In compliance with Local Rule 5-1(i)(3), I hereby attest that Plaintiffs' counsel Kai H. Richter and ASIC's counsel W. Glenn Merten have concurred in this filing.

Dated: July 10, 2014

By: /s/Timothy J. Droske

TIMOTHY J. DROSKE (*pro hac vice*)